

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII

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901 NORTH FIFTH STREET
KANSAS CITY, KANSAS 66101

ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

In the Matter of

Iowa Turkey Products, Inc.
715 West Tilden Street
Postville, Iowa

Respondent.

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) Docket No. CAA-07-2002-0160
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)

CONSENT AGREEMENT AND FINAL ORDER

This proceeding for the assessment of a civil penalty was initiated on June 24, 2002, pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), when the United States Environmental Protection Agency (EPA or Complainant) issued to Iowa Turkey Products, Inc. Tilden, Iowa (Respondent) a Complaint and Notice of Opportunity for Hearing.

The Complaint charges Respondent with a violation of the Chemical Accident Prevention Provisions, and specifically the requirement to submit a Risk Management Plan under Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68. The Complaint alleges the one day statutory maximum penalty of Twenty-seven Thousand Five Hundred Dollars (\$27,500).

EPA and Respondent entered into negotiations in an attempt to settle the allegations contained in the Complaint; this Consent Agreement and Final Order are the result of such negotiations.

CONSENT AGREEMENT

1. For purposes of this proceeding, Respondent admits the jurisdictional allegations of the Complaint and neither admits nor denies the factual allegations of the Complaint.
2. Respondent certifies by the signing of this Consent Agreement and Final Order that to the best of its knowledge, Respondent's facility is presently in compliance with all requirements of Section 112(r) of the Clean Air Act, 42 U.S.C. § 7412(r), and all regulations promulgated thereunder.
3. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth in the Complaint.
4. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorney's fees.
5. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of the civil penalty as set forth below.
6. Respondent understands that failure to pay any portion of the civil penalty assessed herein in accordance with the provisions of this Order may result in commencement of a civil action in Federal District Court to recover the total penalty proposed in the Complaint, together with interest thereon at the applicable statutory rate.

FINAL ORDER

Pursuant to the provisions of the Clean Air Act, 42 U.S.C. § 7401, and based upon the information set forth in this Consent Agreement, IT IS HEREBY ORDERED THAT:

1. Respondent shall pay a mitigated civil penalty of Fifteen Thousand Dollars (\$15,000). Respondent shall pay the civil penalty in two equal payments of Seven Thousand Five Hundred Dollars (\$7500). The first payment is due within thirty days (30) of entry of this Final Order.

The second and final payment is due by March 30, 2003. Payment shall be by cashier's or certified check, made payable to the "United States Treasury" and remitted to:

EPA-Region VII
c/o Mellon Bank
P.O. Box 360748M
Pittsburgh, Pennsylvania 15251.

2. A copy of each check should be sent to:

Julie M. Van Horn
EPA-Region VII
Office of Regional Counsel
901 North Fifth Street
Kansas City, Kansas 66101.

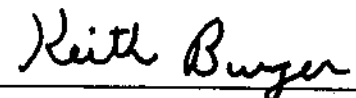
3. Respondent and Complainant shall bear their own costs and attorneys' fees incurred as a result of this matter.

COMPLAINANT:
UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY

By 
Julie M. Van Horn
Senior Assistant Regional Counsel

Date 12 Sept 2002

RESPONDENT:
IOWA TURKEY PRODUCTS, INC.
TILDEN, IOWA

By 

Title GENERAL MANAGER

Date 9-5-02

In The Matter Of:
Iowa Turkey Products, Inc.
Docket No. CAA-07-2002-0160

IT IS SO ORDERED. This Final Order shall become effective
immediately.

Karina Borromeo
Karina Borromeo
Regional Judicial Officer

Date Sept. 18, 2002

IN THE MATTER OF Iowa Turkey Products, Inc., Respondent
Docket No. CAA-07-2002-0160

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Julie Van Horn
Senior Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Charles F. Becker
Belin Lamson McCormick Zumbach Flynn
The Financial Center
666 Walnut, Suite 2000
Des Moines, Iowa 50309-3989

Copy by First Class Pouch Mail to:

The Honorable Susan L. Biro
Chief Administrative Law Judge
U. S. Environmental Protection Agency
401 M Street, S.W./Mail Code 1900L
Washington, D. C. 20460

The Honorable William B. Moran
Administrative Law Judge
U. S. Environmental Protection Agency
401 M Street, S.W./Mail Code 1900L
Washington, D. C. 20460

Dated: 9/19/02


Kathy Robinson
Regional Hearing Clerk